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4
5 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
6 The Honorable Salvador Mendoza, Jr.

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9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 JAMES DEAN CLOUD,

13 Defendant.

Case No. 1:19-CR-2032-SMJ-1

BENCH BRIEF: USING LEADING
QUESTIONS WITH AGENT TROY RIBAIL
AND AGENT JENNIFER TERAMI DURING
DIRECT EXAMINATION

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18 James Cloud will call FBI Agents Troy Ribail and Jennifer Terami during his
19 case in chief. Agent Ribail is employed by the Government and has sat at the
20 Government counsel table throughout the trial. Agent Terami is employed by the

21 BENCH BRIEF: LEADING QUESTIONS - 1

1 Government and has been present in the gallery throughout the trial. Agents Ribail
2 and Terami, and others reporting to them, collected evidence against James Cloud.
3 They interviewed many of the witnesses including M.J. and N.J. Agent Ribail testified
4 four times before the grand jury requesting indictments against Mr. Cloud.

5 Agents Ribail and Terami are adverse witnesses. Federal Rule Evidence 611
6 states courts “should allow” leading questions “when a party calls a hostile witness, an
7 adverse party, or a witness identified with an adverse party.” Fed. R. Evid. 611(c)(2)
8 (2022). Rule 611 does more than simply recognize courts “should allow” leading
9 questions when dealing with adverse witnesses; the rule makes it procedurally easier to
10 employ leading questions at the outset by removing the need to first show the witness
11 is hostile. See, e.g., *Ellis v. Chicago*, 667 F.2d 606, 612-13 (7th Cir. 1981) (“The new
12 [Rule 611] was thus designed to enlarge the categories of witnesses automatically
13 regarded as adverse, and therefore subject to interrogation by leading questions
14 without further showing of actual hostility.”).

15 Because Agent Ribail is employed by the Government and is the lead law
16 enforcement officer on the case against Mr. Cloud, he qualifies as an adverse witness.
17 In addition, because Agent Terami is employed by the Government and has been
18 integrally involved on the case against Mr. Cloud, she also qualifies as an adverse
19 witness. As such, James Cloud respectfully asks the Court to allow leading questions,
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1 as Rule 611 encourages during the direct examinations of Agents Ribail and Terami in
2 his case in chief.

3 Dated: March 4, 2022.

4 /s/Lorinda Meier Youngcourt
Lorinda Meier Youngcourt

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6 **Certificate of Service**

7 I certify that on March 4, 2022, I electronically filed the foregoing with the
8 Clerk of the Court using the CM/ECF System, which will notify all counsel or record.
9 Further, I provided a hard copy to all counsel in open court.

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